IN THE HIGH COURT OF JUDICATURE AT BOMBAY CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9391 of 2004

Army Institute of Technology...Petitioner
Vs.
Shri V.R. Nanivadekar & Ors..Respondents

WITH

WRIT PETITION NO.4854 OF 2004

Army Institute of Technology ..Petitioner
Vs.
Shri Z.C. Bendale & Ors. ...Respondents

Mr. S.S. Pakale, for the Petitioners
Mr. A.V. Anturkar i/b. Sangram P. Pawar for Respondent No.1 in both petitions.
Mrs. M.G. Kulkarni, for Respondent Nos. 2 and 3 in both petitions..

CORAM: F.I. REBELLO & S.P.KUKDAY, JJ.
DATE : 4th May, 2005
P.C.

. In both the petitions the petitioners have challenged the order of the Central Administrative Tribunal granting relief to the respondents herein. As the matter was technical and pertaining to the fixation of pay scales we had appointed the Section Officer on the Establishment of this Court who is conversant with the procedure of fixation of pay scale to act as Commissioner and submit the report to this Court. The Commissioner has since submitted his report.

2. In so far as Writ Petition No.4854 of 2004 i.e. the case of Shri Bendale, the learned Commissioner has considered the fact that Shri Bendale was working in D.Y. Patil College with effect from 19th October, 1992 as Assistant Professor on pay of Rs.4575/- in the pay scale of

Rs.3700-125-4950-150--5700/-. He resigned from the said College with effect from 17th April, 1996 and joined the Army Institute of Technology on 18th April, 1996. It is also considered that after he joined the Army Institute of Technology on resignation he was placed in the same pay scale of Rs.4950/- which he was drawing at the time of his resignation. The Commissioner has then considered the Government Resolution dated 18th December, 1999 which provides that the Lecturers (Selection Grade)/Assistant Professors as on 1st January, 1996 their pay scale was to be fixed at the minimum of Rs.14,940/- as and when they complete five years service in the grade. That has been considered and the Scale has been fixed at Rs.14,940/-. We find no reason to take a view different from the view taken by the learned Commissioner. Nothing has been brought to our attention which warrants rejecting the report of the Commissioner.

3. We then come to the case of Shri V.R.Nanivadekar petitioner in Writ Petition No.9391 of 2004. Shri Nanivadekar when he joined the Army Institute of Technology as Lecturer with effect from 13th January, 1997 was given 11 increments in the pay scale of Rs.3000-100-3500-150-5000. The said pay scale was revised to Rs.10,000-325-152000/-. Shri Nanivadekar was subsequently appointed as Assistant Professor on 2nd September, 1998. Considering the above and considering the 11 increments in the revised pay scale the basic has been fixed at Rs.13,575/- as on 13th January, 1997 and considering one increment which he would have drawn on 1st January, 1998 the basic is fixed at Rs.13,900/- after completion of one year in

service. The objection by the petitioners to this fixation is based on the G.R. dated 18th December, 1999. Table 2 in the G.R. dated 18th December, 1999 deals with the situation where the increments drawn in the course of the employment have been considered. Nothing has been pointed out in the instant case as to how in the case of a teacher who joined after 1st January, 1996 and who had been given additional increments at the time of joining should be fixed. The learned Commissioner proceeded on the footing that as Nanivadekar joined and granted 11 increments in the old pay scale the same should be considered also in the new pay scale. We do not find that the view taken by the Commissioner was a view which could not have been taken. Apart from that, as noted earlier the Commissioner appointed was a person familiar with the issue in the registry of this Court and dealing with same. In so far as the scale is concerned, that has been considered by considering the basic of Lecturer which he was drawing on 1st January, 1998 in the post of Lecturer. Considering that and considering the pay of Rs.12,000-18300 the pay scale was fixed at Rs.14,100/- as on 2nd September, 1998 with a direction that he will be entitled to increments for subsequent years. We do not find that the objection as raised on behalf of the petitioners herein are contrary to any G.R. or Service Rules. We, therefore, reject both the petitions. The Report of the Commissioner is accepted. In the light of that the scale of the Respondents in both the petitions should be as fixed by the Commissioner. Petitions are accordingly disposed off.

(F.I. REBELLO, J.)

(S.P. KUKDAY, J.)